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**State of Washington
GROWTH MANAGEMENT HEARINGS BOARD
FOR EASTERN WASHINGTON**

KATHY MIOTKE and NEIGHBORHOOD
ALLIANCE OF SPOKANE,

Petitioners,

v.

SPOKANE COUNTY,

Respondent,

RIDGECREST DEVELOPMENTS, L.L.C., FIVE
MILE CORPORATION, NORTH DIVISION
COMPLEX, L.L.C., CANYON INVESTMENTS,
INC., J. DONALD and VALENA CURRAN,
and STEPHEN W. TREFTS d/b/a
NORTHWEST TRUSTEE & MANAGEMENT
SERVICES,

Intervenors.

Case No. 05-1-0007

**ORDER FINDING
CONTINUED NON-COMPLIANCE**

I. PROCEDURAL HISTORY

On August 25, 2005, KATHY MIOTKE and NEIGHBORHOOD ALLIANCE OF SPOKANE, by and through their representatives, Kathy Miotke and Bonnie Mager, filed a Petition for Review.

On September 1, 2005, the Board received Ridgecrest Developments, L.L.C., Five Mile Corporation, North Division Complex, L.L.C., Canyon Investments, INC., J. Donald and Valena Curran, and Stephen W. Trefts d/b/a Northwest Trustee & Management Services' Motion and Brief in Support of Motion to Intervene.

On November 9, 2005, the Board held a telephonic motion hearing. Present were, Dennis Dellwo, Presiding Officer, and Board Members Judy Wall and John Roskelley. Present

1 for Petitioners were Rick Eichstaedt and Bonnie Mager. Present for Respondent was Martin
2 Rollins. Present for Intervenors was Margaret Arpin.

3 On November 14, 2005, the Board issued its Order on Motions to Supplement the
4 Record, Dismiss Participation of Intervenors, Dismiss Neighborhood Alliance of Spokane's
5 Petition, Dismiss Petitioners' SEPA Claims, Motion to Restate Issues.

6 On January 19, 2006, the Board held the Hearing on the Merits. Present were,
7 Dennis Dellwo, Presiding Officer, and Board Member John Roskelley. Board Member Judy
8 Wall was unable to attend the final hearing, but has reviewed the record and arguments.
9 Present for Petitioners were Rick Eichstaedt, Kathy Miotke, and Bonnie Mager. Present for
10 Respondent was Martin Rollins. Present for Intervenors was Margaret Arpin.

11 On February 14, 2006, the Board issued its Final Decision and Order.

12 On July 12, 2006, the Board held a telephonic Compliance Hearing. Present were,
13 Dennis Dellwo, Presiding Officer, and Board Members John Roskelley and Judy Wall. Present
14 for Petitioners were Rick Eichstaedt, Kathy Miotke, and Lindell Haggin. Present for
15 Respondent was Dave Hubert. Present for Intervenors was Stacy Bjordahl.

16 II. DISCUSSION

17 The County admitted at the July 12, 2006, hearing that it has failed to bring itself
18 into compliance with the FDO on any of the issues where the County was found out of
19 compliance. The County stated that it has begun its five-year review of the County's
20 Comprehensive Plan, including the CFP, and is beginning the process of performing a land
21 and population analysis. These activities will not be completed until December 1, 2006, or
22 before.

23 The County remains out of compliance on all issues listed in the FDO in this matter.
24 The County sought an extension of time for the completion of its efforts to bring the County
25 into compliance. The County contends the work done in the five-year review will be the
26 same work required in this matter. While some of the County's actions are similar or
duplicative, the matters are separate and the actions needed to be taken to bring the
County into compliance could be done separately and more expeditiously than the full

1 review of the Comprehensive Plan. The update of the CFP and land and population and land
2 quantity analysis must be done quickly and as a priority. The County is considering other
3 expansions of the UGA and a decision without these tools is impossible and non-compliant.
4 An extension is not granted and the County is directed to bring itself into compliance within
5 30-days. A second compliance hearing will be held within 30 days of the issuance of this
6 Order.

7 The Petitioners sought the imposition of sanctions, claiming that the County is
8 refusing to comply and will continue to expand the UGA without the appropriate information
9 unless the Governor is asked to impose sanctions on the County. The Board is aware that
10 the County is working to update the CFP and perform a land and population analysis. The
11 Board is also aware that the County did not expand the UGA pursuant to other pending
12 applications. The Board is willing to give the County the benefit of the doubt that the refusal
13 to expand the UGA was for the purposes of awaiting the completion of the land and
14 population analysis and update of the CFP for that area. Because of these things, the Board
15 will not recommend the imposition of sanctions at this time. If, however, the Board finds
16 that the County further expands the UGA prior to the completion of the required tasks, the
17 matter of sanctions will be reconsidered and sanctions may be recommended.

18 The Board finds and concludes:

- 19 1. Spokane County has failed to update the CFP and perform a population
20 and land quantity analysis to bring itself into compliance with the FDO
21 issued in this matter.
- 22 2. Spokane County has further failed to address the other issues of non-
23 compliance such as the "island UGA" and Critical Areas concerns.
- 24 3. Therefore, based upon RCW 36.70A.130(1) and the Board's February
25 14, 2006 Order, the Board will enter a **Finding of Continued Non-**
26 **compliance.**

1 **III. ORDER**

2 Based upon the Board's review of the GMA, prior decisions of the Boards, the
3 February 14, 2006, Order, the presentations of the parties at the compliance hearing, and
4 having discussed and deliberated on the matter, the Board enters a Finding of Continuing
5 Non-compliance –Therefore, Spokane County is directed to take the necessary steps to
6 bring itself into compliance with this Order by **August 16, 2006. Respondent's**
7 **Statement of Action Taken to Comply is due August 16, 2006.** Petitioner's
8 compliance brief is due **August 30, 2005.** Respondent's compliance brief is due
9 **September 13, 2006.** Petitioner's optional compliance reply brief is due **September 20,**
10 **2006.** The Board will hold a telephonic compliance hearing on **September 29, 2006, at**
11 **10:00 a.m.** Ports are reserved for Mr. Eichstaedt, Ms. Miotke, Ms. Haggin, Mr. Hubert, and
12 Ms. Bjordahl. The parties will call **360-357-2903 followed by 17198 and the # sign.**
13 **Pursuant to RCW 36.70A.300 this is a final order of the Board.**

14 **Reconsideration.** Pursuant to WAC 242-02-832, you have ten (10) days from the
15 mailing of this Order to file a petition for reconsideration. The original and four
16 copies of a motion for reconsideration, together with any argument in support
17 thereof, should be filed with the Board by mailing, faxing, or otherwise
18 delivering the original and four copies of the motion for reconsideration directly
19 to the Board, with a copy served on all other parties of record. **Filing means**
20 **actual receipt of the document at the Board office.** RCW 34.05.010(6), WAC 242-
21 02-240, WAC 242-02-330. The filing of a motion for reconsideration is not a
22 prerequisite for filing a petition for judicial review.

23 **Judicial Review.** Any party aggrieved by a final decision of the Board may appeal
24 the decision to superior court as provided by RCW 36.70A.300(5). Proceedings
25 for judicial review may be instituted by filing a petition in superior court
26 according to the procedures specified in chapter 34.05 RCW, Part V, Judicial
Review and Civil. The petition for judicial review of this Order shall be filed with
the appropriate court and served on the Board, the Office of the Attorney
General, and all parties within thirty days after service of the final order, as
provided in RCW 34.05.542. Service on the Board may be accomplished in person
or by mail. Service of the Board means **actual receipt of the document at the**
Board office within thirty (30) days after service of the final order. A petition for
judicial review may not be served on the Board by fax or electronic mail.

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Service. This Order was served on you the day it was deposited in the United States mail. RCW 34.05.010(19).

SO ORDERED this 17th day of July 2006.

EASTERN WASHINGTON GROWTH MANAGEMENT
HEARINGS BOARD

Dennis Dellwo, Board Member

John Roskelley, Board Member

Judy Wall, Board Member